

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2006-37-C

August 1, 2006

In re: Petition of the Office of)	COMMENTS OF
Regulatory Staff for a Rule-)	THE OFFICE OF
Making Proceeding to Examine)	REGULATORY STAFF
The Requirements and Standards to)	
Be Used by the Commission When)	
Evaluating Applications for Eligible)	
Telecommunications Carrier (ETC))	
Status and When Making Annual)	
Certification of ETC Compliance to)	
The Federal Communications)	
Commission)	

Introduction

On July 20, 2005, Budget Phone, Inc. filed a petition before the South Carolina Public Service Commission (“the Commission”) for designation as an eligible telecommunications carrier (“ETC”) in the state of South Carolina.¹ Realizing that the Commission’s decision in that matter would set precedent for the procedure of designating other competitive wireline ETCs, the Office of Regulatory Staff (“ORS”) filed a motion to hold the proceeding in abeyance. On January 9, 2006, ORS filed a petition requesting that the Commission initiate a rulemaking proceeding to adopt a standard set of guidelines that would apply to all wireline ETC applicants for non-rural areas. ORS noted that the Federal Communications Commission (“FCC”) had recently

¹ *In re: Petition of Budget Phone, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No.2005-219-C, Order No. 2006-71 (rel. January 31, 2006) (“*Budget Phone Order*”).

released its Report and Order adopting new and more rigorous minimum requirements for a telecommunications carrier to be designated as an ETC.² The *Universal Service Order* encouraged state commissions exercising jurisdiction over ETC designations to adopt these new FCC requirements or similar guidelines for deciding whether a common carrier should be designated as an ETC.³

The Commission granted ORS's request in Order No. 2006-71, issued January 31, 2006. The Order held the Budget Phone matter in abeyance and opened a rulemaking proceeding encompassing not only wireline carriers in non-rural areas, but "requirements and standards to be used by the Commission when evaluating applications for ETC status and when making annual certification of ETC compliance to the [FCC]."⁴ These new rules will govern ETC designation, annual reporting requirements, and requirements for the Lifeline/Link-up programs in both rural and non-rural areas. The Commission issued a Notice of Drafting on May 9, 2006.

ORS offers the following comments in response to the Commission's Notice of Drafting in three sections: 1) summaries of the two major source documents used to frame this discussion, the FCC's *Universal Service Order* and NARUC's ETC Survey Final Report, 2) ORS's policy considerations and recommendations to the Commission, and 3) ORS's draft regulations based on those proposed and adopted by the FCC.

² *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket 96-45 ¶ 1, 58-64 (rel. March 17, 2005) ("*Universal Service Order*").

³ *Id.*

⁴ *Budget Phone Order* at p. 3.

I. Summaries of Source Materials

A. ETC Guidelines Adopted in the FCC's *Universal Service Order*

In March of 2005, the FCC issued its *Universal Service Order* announcing its new minimum requirements for designating telecommunications carriers as ETCs. ETC status allows LECs to receive Federal Universal Service Fund (“USF”) “high-cost” support. Although these requirements are now mandatory for carriers seeking ETC designation before the FCC, the FCC encouraged – but did not require – states to adopt similar requirements for ETC proceedings at the state level. Under Federal law⁵ state commissions retain primary authority to designate eligible carriers.

The FCC’s report suggests consideration of three areas when determining whether a carrier should receive ETC status, and the report offers tests that should be applied in each respective area. Generally the FCC’s report provides the following:

1. Five mandatory criteria the FCC or a state commission should use in considering whether a common carrier has satisfied its burden of proof necessary to obtain initial ETC designation.
2. An analytical framework the FCC or a state commission should use to determine whether the public interest would be served by an applicant’s designation as an ETC.
3. More stringent reporting requirements for ETCs in order to ensure that high-cost universal service support continues to be used for its intended purposes.

⁵ 47 U.S.C. § 214(e)(2)

1. Eligibility Requirements for Initial ETC Designation

In addition to the statutory requirements found in the Telecommunications Act,⁶ the FCC's new guidelines require an ETC applicant to demonstrate:

- (1) a commitment and ability to provide services, including providing service to all customers within its proposed service area;
- (2) how it will remain functional in emergency situations;
- (3) that it will satisfy consumer protection and service quality standards;
- (4) that it offers local usage comparable to that offered by the incumbent LEC; and
- (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to section 214(e)(4) of the Act.

The FCC's Report and Order sets forth specific criteria for each of these eligibility requirements, many of which are based on its recent *Virginia Cellular* decision.⁷

2. Public Interest Determinations

Section 214 of the Telecommunications Act, requires state commissions to determine that an ETC designation is consistent with the public interest, convenience and necessity.⁸ Section 254, likewise, mandates that state commissions find that bestowing ETC status on a carrier serves the public interest, but Section 254 fails to give states specific criteria to use in making that determination.

⁶ See 47 USC §214.

⁷ *Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 1563 (2004).

⁸ 47 U.S.C. § 214(e)(2).

While ETC designation is consistent with the purposes of the Act itself,⁹ the FCC's Report and Order adopts a two-part, fact-specific public interest analysis developed from prior orders which are as follows:

- (1) A cost-benefit analysis including consumer choice and the advantages and disadvantages for a particular service offering.
- (2) A 'creamskimming' analysis when a carrier requests ETC designation only "in a disproportionate share of the higher-density wire centers in an incumbent LEC's service area" rather than the LEC's entire rural service area. The FCC encourages states to make this portion of the analysis the only point at which they consider an incumbent's status as a rural carrier with regard to whether designating an additional ETC in that area would be in the public interest.

3. Reporting Requirements

Finally, the FCC's Report and Order sets forth more stringent certification and annual reporting requirements. Under these guidelines, all ETCs designated by the FCC must submit the following information in their annual reports:

- (1) Progress reports on the ETC's five-year service quality improvement plan;
- (2) Detailed information on any outage lasting more than 30 minutes;
- (3) Number of service requests from potential customers in its service area that went unfulfilled;
- (4) Number of complaints per 1,000 lines;

⁹ According to the FCC's Report and Order, the fundamental goals of the Act are: "preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas." *Report and Order* at p.19 ¶40.

- (5) Certification that the ETC is complying with applicable service quality standards and consumer protection rules;
- (6) Certification that the ETC is able to function in emergency situations;
- (7) Certification that the ETC is offering a local usage plan comparable to that offered by the ILEC in the relevant service areas;
- (8) Certification that the ETC acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

B. NARUC's Survey of State ETC Policies and Guidelines

ORS reviewed a publication from the National Association of Regulatory Utility Commissioners ("NARUC") entitled ETC Survey Final Report published in June of 2006 (portions attached as Exhibit B). In Response to the FCC's *Universal Service Order* NARUC circulated a survey to state utility commissions seeking information on current practices for ETC designation. The responses were collated and provided to State commissions.

Below is an outline of the questions NARUC posed to the states and a summary of their responses, indicating consensuses where they appear to exist.

Survey Questions and Response Patterns

- **Questions 5-10; States choosing to assert jurisdiction over ETC status**

Thirty states indicated that their commissions were asserting at least some jurisdiction over designating ETC status to receive Federal USF support; nine

states said they were asserting no jurisdiction over at least some aspect of ETC designation; i.e. they assert authority to designate wireline ETC but not wireless ETCs. At least 7 states said they have had their jurisdiction over designating wireless carriers as ETCs removed by statute. Four states indicated that they do not process annual certifications for ETCs.

- **Questions 11-13 Action Taken in Response to the FCC's ETC Order**

Twelve states said they have either formally adopted new ETC guidelines or have opened proceedings to establish guidelines in response to the FCC's Order.

Indiana indicated that its commission adopted the FCC's guidelines *in toto*, California adopted its own guidelines, and the remaining states said they had opened dockets seeking comments and anticipated formally adopting their own guidelines as a result of those proceedings.

Thirteen states said they had not taken action directly in response to the FCC's Order, but were considering revising their ETC guidelines or would apply the FCC's guidelines in subsequent cases.

- **Question 14: Single Connection**

The FCC's Order declined to adopt a policy that would have limited high-cost support to a single connection to the PSTN per household or business. Congress's *2005 Consolidated Appropriations Act* limited the FCC's authority to use appropriated funds to impose a single-line-per-premises limit.¹⁰ So although the FCC's Joint Board recommended such a limitation, the Order did not adopt it.

States, however, may impose such a limitation on supported connections.

Only Maryland and Wisconsin indicated that they currently limit an ETCs' ability

¹⁰ *Universal Service Order* at ¶16.

to recover support for multiple connections to a single residence or business.

Thirty-three other states said they had no such limitation on support for multi-line business and residential customers.

- **Question 15: Technology Neutrality**

The FCC's Order encouraged states to make technologically neutral ETC designations, meaning that carriers should be evaluated using the same criteria regardless of what technology is used to provide the service . For instance, wireless and VoIP providers should be evaluated no differently than incumbent local exchange carriers ("ILECs") or competitive local exchange carriers ("CLECs"). Twenty-three states indicated that their Commissions expressly use principles of technology neutrality when making ETC designation decisions; six states said they do not make technology-neutral decisions and do weigh a carriers' technology as a factor.

- **Question 16: Service Area**

The FCC's Order indicates that it will require ETC applicants to make specific commitments to provide service to requesting customers throughout service areas for which they are designated as ETCs. Twenty-two states indicated that they already have similar requirements in place. Sixteen other states said they had their own guidelines which were similar in nature but did not have a 100% service requirement.

- **Question 17: Five Year Plan (Build Out Proposal)**

The FCC's Order requires all ETCs (applicants as well as existing ETCs) to "submit a five-year plan describing with specificity its proposed improvements or

upgrades to the applicant's network on a wire center-by-wire center basis throughout its designated service area." Fifteen states indicated that they had some sort of build out/implementation plan requirement. The time horizons for these plans varied greatly from state to state and were as short as one year (Alabama). Fourteen states said they had no such requirement, and eight others said they had yet to adopt similar guidelines but are considering it.

- **Question 18: Auditing Function and Reporting**

The FCC's order requires ETCs to "submit coverage maps detailing the amount of high-cost support received for the past year, how [those] monies were used to improve its network, and specifically where signal strength, coverage, or capacity has been improved." ETCs must also submit annual reports detailing why any targets established in their five-year reports were not met. Nine states indicated that they have similar reporting requirements. Thirteen states said they did not have reporting guidelines of this nature, and fifteen other states said they were considering implementing reporting requirements.

- **Question 19: Emergency Communications/Reliability**

The FCC's Order requires ETC applicants to show that their services will remain functional in emergency situations and demonstrate that they have a reasonable amount of back-up power. Nineteen states indicated that they did not currently have such requirements, but at least two stated that they have made this factor a consideration in past ETC proceedings. Fourteen other states said they have related provisions or have looked at this factor in the past. Only two states, Nebraska and Tennessee, said they had specific requirements in place.

- **Question 20: Consumer Protection/Non-Emergency Service Standards**

The FCC's Order requires a carrier seeking ETC designation to demonstrate its commitment to meeting consumer protection and service quality standards but allows applicants to propose the standards to which they will adhere. Sixteen states said they do have pre-defined specific criteria (outside of emergency functionality requirements) that ETC applicants must meet. Twenty other states gave varied responses concerning their criteria in this area.

- **Question 21: Public Interest Determinations**

Sections 214 and 254 of the Telecommunications Act both require that ETC designation be consistent with the public interest. In its Order, the FCC said it will continue to use a fact-specific public interest analysis it has developed in previous orders such as *Virginia Cellular*. There is no general consensus among respondents to NARUC's survey where public interest analysis is concerned.

- **Questions 22-23: State-specific Rules and Laws**

Eight states said that they currently have statutes or rules in place governing the approval of ETC status; 25 other states said they do not.

II. Recommendations

South Carolina is one of only 12 states that have yet to designate any Competitive ETCs ("CETC"). In the majority of US states and territories, both wireless carriers and/or CLECs have received CETC designation. As a whole, the 38 states that have

allowed competitive ETC designation received more than \$496 million in additional high-cost support from the Federal Universal Service Fund (“Federal USF”) in 2005.¹¹

ORS recommends that the designation of additional qualified ETCs will benefit the economy of the state by retaining a greater share of the overall contributions to the Federal USF pool. Because these funds must be spent to improve our state’s telecommunications infrastructure, CETCs will likely employ local workers and purchase goods and services from in-state vendors. These economic benefits go hand in hand with the technology benefits discussed below.

Designating competitive ETCs will not supplant the support incumbent ETCs receive from the Federal USF. Federal regulations use different formulas for calculating the amount of high-cost support provided to competitive and non-competitive carriers.¹² While a CETCs’ high-cost support is calculated on the number of access lines it provides to consumers, incumbent local exchange carriers (“ILECs”) calculate their high-cost support largely on the operating costs of their networks.

A. Designation of Additional Qualified ETCs Will Help South Carolina Remain Technologically Competitive With Neighboring States

In May of this year the National Regulatory Research Institute (“NRRI”) at Ohio State University issued a *Commissioner Primer* on Universal Service. In its discussion on the economic and infrastructure benefits of the Federal USF, the institute said:

“An area or region without a modern, fully capable communications network might not be able to participate in modern, information-based economic activity. As was the case with the railroads

¹¹ *Id.* at Table 3.15.

¹² *See* 47 U.S.C. § 54.301 *et seq.*

in the nineteenth century and the interstate highway system in the mid-twentieth century, no community, state, and region wants to be without a fully capable communications network.”¹³

South Carolina should strive to not fall into the category described by the NRRI. Flanked on three sides by states with booming economies and swelling populations, South Carolina cannot allow itself to be left behind where communications infrastructure is concerned. In order to attract our share of the flow of businesses and workers moving out of the Midwest and Northeast and migrating into the Southeastern states, South Carolina must remain technologically competitive with its neighbors.

According to FCC reports, CETCs in Florida and Georgia began receiving Federal USF distributions in 2004.¹⁴ Virginia approved CETCs in 2003, Alabama and Mississippi designated CETCs as early as 2002, and a Tennessee CETC received Federal USF monies as early as 2001.¹⁵

ORS recommends that South Carolina join its neighbors in providing a vehicle to facilitate the deployment and investment in a robust telecommunications infrastructure. Failing to take advantage of the benefits of the Federal USF would “leave money on the table” for South Carolinians.

B. The Designation of Additional Qualified ETCs Will Create Additional Service

Options for the State’s Lifeline and Link-up Consumers

¹³ Rosenberg, E., Perez-Chavolla, L., & Liu, J., *Commissioner Primer, Universal Service*, National Regulatory Research Institute, at p.5 (May 2006), Retrieved from <http://www.nrri.ohio-state.edu/Telecom/universal-service-primer> July 28, 2006.

¹⁴ *Universal Service Monitoring Report 2005* at Table 3.15.

¹⁵ *Id.*

Lifeline and Link-up are Federal USF-supported programs that reduce the cost of basic telephone service for low-income consumers. For many poverty-level South Carolinians, these programs make the difference between having or not having a telephone. Currently, in South Carolina, there are no wireless ETCs, therefore, lifeline program benefits are only available to consumers by way of a landline home telephone.

However, landline service may not always be the best or most convenient option for those striving to climb out of poverty. The ability to be reached by babysitters, prospective employers, and other family members while outside the home is a convenience most middle-class Americans now find indispensable. ORS's Lifeline Outreach specialists report that beneficiaries of the state's social aid programs do not always have a stable primary residence in which to install a landline phone; those seeking help from women's shelters, for example, lose out on a benefit they would otherwise qualify for – during a time they might most desperately need it – because they are in transition between residences. ORS believes using Federal USF dollars to offer these services to low-income South Carolinians will help these citizens participate in our increasingly mobile economy.

**C. The Commission Should Fairly and Consistently Apply the FCC's
'Creamskimming' Analysis To Ensure That Additional ETCs Do Not Cannibalize
South Carolina's Existing Telecommunications Carriers**

In its *Universal Service Order*, the FCC notes that designating CETC for geographic areas smaller than the service area of an incumbent LEC does have the potential for 'creamskimming.' Theoretically, a CETC might seek to serve only the more

densely-populated wire centers of an ILECs' territory. According to the FCC, "it is reasonable to assume that the highest-density wire centers are the least costly to serve, on a per-subscriber basis." As mentioned earlier, because the formulas used for CETCs versus incumbent ETCs are different, a creamskimming CETC might drain the Federal USF by taking a significant portion of an ILEC's profitable subscribers, forcing it to seek greater and greater support from the Federal USF.

ORS encourages the Commission to apply the FCC's creamskimming analysis to ensure that CETCs do not have this effect on South Carolina's incumbent carriers.

III. Proposed Regulations

The proposed regulations concerning ETCs are contained in Exhibit A to these comments. For the most part, the proposed regulations mirror the requirements imposed on ETC's designated by the FCC. However, ORS is required to balance the interests of the consumer, the regulated utility and economic growth and development. As part of balancing the interests between the need for accountability of Federal USF support versus the burden of increased reporting requirements on the regulated utilities, ORS's proposed regulations deviate from the FCC requirements as follows:

- 1). The FCC requires a five (5) year network improvement plan and ORS recommends a two (2) year plan. A two year plan is less onerous and carriers should have a forecast of at least two years to plan for the provision, maintenance and upgrade of facilities and services in South Carolina using federal funds.

- 2). ORS seeks to include the number of complaints or trouble reports per 100 handsets or access lines whereas the FCC requirements are limited to complaints per 1,000 handsets or lines. ORS notes that the Commission's regulations currently require incumbent local exchange carriers and competitive local exchange carriers to provide number of trouble reports per 100 access lines in their quarterly quality of service reports.
- 3). ORS seeks information on the number of Lifeline and Link-Up customers that received assistance as of December 31st of the prior year consistent with the reporting requirements of the state universal service fund.
- 4). ORS seeks to include the limitation that only carriers offering services via its own facilities or in a combination of its own facilities and resale of another carrier's services can qualify for ETC designation.
- 5). ORS seeks to include the requirement that ETC's will provide an affidavit signed by an officer of the company that the ETC advertises the availability of Lifeline/Link-Up services.
- 6). The proposed regulations are tailored for the division of responsibility between ORS and the Commission. The initial application for ETC designation is filed with the Commission with a copy to ORS. With regard to the annual reporting requirements, the information is filed with the Commission and ORS. ORS will review the submission and submit a report to the Commission as to whether the company is complying with federal

and state regulations and rules. The Commission will decide whether or not to certify to the FCC and the administrator, the Universal Service Administration Company, by October 1 that the carrier is entitled to receive federal support for the upcoming fiscal year. In order to meet the October 1 deadline and to coordinate with current reporting guidelines, ORS seeks an August 15th deadline for the reporting requirements.

7). ORS seeks to include certain requirements for Lifeline/Link-Up services in these regulations. Many of the proposed requirements for Lifeline/Link-Up services are met by existing ETC's currently. However, as part of the process of designating new ETC's, the criteria for providing Lifeline/Link-Up services must be clear such that any newly designated ETC understands the responsibilities associated with ETC designation.

IV. Conclusion

Based on the analysis above, ORS respectfully requests that the Commission adopt the proposed regulations in Exhibit A and requests that the Commission act promptly in adopting regulations such that South Carolina may fully participate in the Federal USF.

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SUBARTICLE 9
REGULATIONS FOR ELIGIBLE TELECOMMUNICATIONS CARRIERS

103-690 Application and Purpose

- (a) These rules define the South Carolina requirements for designation as an Eligible Telecommunications Carrier (“ETC”) for the purpose of receiving federal universal service support pursuant to section 214(e) of the Federal Telecommunications Act of 1996, including ETC requirements associated with Lifeline and Link Up low-income assistance programs.
- (b) These rules define the annual certification requirements that shall be met by ETCs designated by the Commission for continued receipt of federal universal support.
- (c) The purpose of these rules is to require all ETCs receiving federal universal service support to demonstrate that the support is used only for the provision, maintenance, and upgrading of the facilities and services for the service intended.

103-690.1. Requirements for initial designation as an Eligible Telecommunications Carrier.

(a) The Commission may upon its own motion or upon request, designate a common carrier that meets the requirements in this section as an ETC for a designated service area. Upon request and consistent with the public interest, convenience and necessity, the Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission. On or after the effective date of these rules, in order to be designated an eligible telecommunications carrier under section 214(e)(2), of the Federal Telecommunications Act of 1996, any common carrier in its application filed with the Commission and with the ORS must:

- (1) (A) commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will (1) provide service on a timely basis to requesting customers within the applicant’s service area where the applicant’s network already passes the potential customer’s premises; and (2) provide service within a reasonable period of time, if the potential customer is within the applicant’s licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by (a) modifying or replacing the requesting customer’s equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier’s facilities to provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment; and

(B) submit a two-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

- (2) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
 - (3) demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.
 - (4) demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.
 - (5) certify that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.
 - (6) certify that it does or will offer the services that are supported by the federal universal service support mechanisms by using its own facilities or a combination of its own facilities and resale of another carrier's services.
 - (7) certify by affidavit signed by an officer of the company, that it does or will advertise in a media of general distribution the availability of such services, including lifeline services and the applicable charges.
- (b) Any common carrier that has been designated under section 214(e)(2) as an eligible telecommunications carrier or that has submitted its application for designation under section 214(e)(2) before the effective date of these rules must submit the information required by paragraph (a) of this section, to the extent applicable, to the Commission and the Office of Regulatory Staff no later than August 15, 2007, as part of its annual reporting requirements under section 103-609.2.

(c) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(2), the Commission determine that such designation is in the public interest. In doing so, the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the eligible telecommunications carrier applicant seeks designation against that of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation. In its creamskimming analysis, the Commission shall consider other factors, such as disaggregation of support by the incumbent local exchange carrier.

103-690.2 Annual reporting requirements for designated eligible telecommunications carriers.

(a) A common carrier designated under section 214(e)(2) as an eligible telecommunications carrier shall provide:

- (1) a progress report on its two-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;
- (2) detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect (a) at least ten percent of the end users served in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. § 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing: (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected;
- (3) the number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers;
- (4) the number of complaints or trouble reports per 100 handsets or access lines;

- (5) certification that it is complying with applicable service quality standards and consumer protection rules;
 - (6) certification that the carrier is able to function in emergency situations;
 - (7) certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas;
 - (8) certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area; and
 - (9) the number of Lifeline customers and the number of customers that received Link Up assistance as of Dec 31st of the prior year.
 - (10) copies of responses to the Lifeline Verification Survey or Certification filed with Universal Service Administrative Company on August 31 of each year.
- (b) *Filing deadlines.* In order for a common carrier designated under section 214(e)(2) to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation, it must submit the annual reporting information in paragraph (a) no later than August 15, 2007, and thereafter annually by August 15 of each year. The information provided should cover the previous twelve (12) month period ending June 30th. The ORS shall review each ETC annual report and notify the Commission as to whether the carrier is in compliance with federal and state regulations and rules. The Commission shall determine based upon the information provided to it whether the carrier is in compliance with federal and state regulations and rules and shall notify the Federal Communications Commission and the Universal Service Administration Company of each company's compliance by October 1 of the reporting year thereby ensuring that each ETC designated by the Commission is authorized to receive federal support for the upcoming fiscal year.

103-690.3 Newly designated eligible telecommunications carriers.

- (a) Once a carrier is designated as eligible to receive support the Commission shall file the certification with the Federal Communications Commission and the Administrator within 60 days of that effective date of its designation as an eligible telecommunications carrier.
- (b) Thereafter, the ETC must submit the data required in 103-690.2(b) by August 1 and the Commission shall file the certification with the FCC and the Administrator by October 1.

103-690.4 ETC Requirements for Lifeline and Link Up Services

- (a) ETCs shall offer Lifeline service in the designated service area to all qualifying low-income consumers in accordance with the federal lifeline service guidelines as follows:
 - (1) ETCs shall advertise the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.
 - (2) ETCs shall commit to offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation service, that service becomes part of that consumer's Lifeline service.
 - (3) ETCs may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier where available.
 - (4) ETCs shall verify twice a year that its Lifeline customers meet the program qualification.
 - (5) ETCs shall notify Lifeline subscribers a minimum of 30 days prior to termination of their service if the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline qualifying criteria.
 - (6) ETCs shall not charge Lifeline customers a monthly number- portability charge.
 - (7) ETCs shall provide copies of responses to the Lifeline Verification Survey or Certifications filed with Universal Service Administrative Company on August 31 of each year.
- (b) ETCs shall offer Linkup service in the designated service area to all qualifying low-income consumers, in accordance with the following guideline:
 - (1) ETCs shall advertise availability of Link Up service in a manner reasonably designed to reach those likely to qualify for the service, and shall provide a reduction of the customary charge for connecting telecommunications service for a single line at the consumer's principle place of residence. The reduction shall be half of the customary charge, or \$30, whichever is less.

ETC SURVEY FINAL REPORT

June 2006



THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

1101 Vermont Avenue, N.W.
Washington, D.C. 20005

Chairman Greg Jergeson
Montana Public Service Commission

Commissioner Philip Jones
Washington Utilities and Transportation Commission

June 19, 2006

ETC Task Force

On May 5, 2005, NARUC Telecommunications Committee Chairman Bob Nelson announced the formation of a Committee task force designed to facilitate State Commission compliance with the FCC's decision to adopt additional mandatory requirements for eligible telecommunications carriers (ETCs) pursuant to 47 U.S.C. § 214(e).

As part of this project, the ETC Task Force submitted a survey to NARUC's member Commissions to get a gauge on individual State Commission policy with respect to ETC designations. Forty Commissions responded to the survey, giving us a wealth of information on the development of State policies on ETC designations. That information has now been compiled into the attached document. Recently, we sought updated information from those that had responded previously.

We would both like to thank the staffs of each responding Commission for their input. We also wish extend a special thanks to Ms. Sarah Henry of NARUC's Washington staff for her excellent work, over the past year, in formatting, editing and compiling survey responses. There would be no report without her substantial contributions which are greatly appreciated.

Thanks again to all who contributed to the successful completion of the survey. We hope that it will be a useful resource for State Commissioners, staff, and others.

Greg Jergeson, Chair, ETC Task Force
Phil Jones, Vice Chair, ETC Task Force

(1) Please designate a contact point that may be called if there are follow-up questions about your responses:

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- [2] ALASKA Lori Kenyon 907.263.2123 lorraine_kenyon@rca.state.ak.us
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- [6] COLORADO John Trogonoksi 303.894.2535 John.Trogonoski@dora.state.co.us
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- [25] NEW MEXICO Susan Oberlander - Susan.Oberlander@state.nm.us
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(2) Does your State have a functioning universal service fund?

	State	Total
Yes	AK, AZ, AR, CA, ID, IL, KS, ME, MD, MA, MO ¹ , NE, NV, NH, NY ² , OR, PA, TX, UT, VT ³ , WI, WY	22
No	AL, DE, FL, IA, HI, IN ⁴ , MA, MI, MS, MT, NC, NH, NM, ND, OH, SD, TN, VA, WA	19

(3) Does your Commission administer your fund internally?

	State	Total
Yes	CA, NE, UT, WY	4
No	AL, AK, AZ, AR, ID, IL, KS, MD, MO, NV, NM, NY, OR, PA, TX, VT, VA, WI	18
Not applicable	DE, FL, HI, IA, IN, MA, ME, MI, MS, MT, NH, NC, ND, OH, SD, TN, WA	17

(4) If your State Commission does not administer your fund internally please include the administrator of your State fund:

State	Administrator	Comments
AK	Alaska Universal Service Administrative Company (AUSAC)	
AL	Unfunded Program	The carriers are required to provide \$3.50 for the lifeline support
AZ	NECA	
AR	Rhoades & Sinon Group LLC	Contact: David Rolka
ID	Alyson Anderson	alyson_anderson@msn.com
IL	Illinois Small Carrier Exchange	

¹ Low-income/disabled fund only.

² The fund supports Lifeline/LinkUp, TRS, and some limited 911/E911 expenses. New York, however, DOES NOT have an in-State "high-cost" fund.

³ Funds E-911, Lifeline and Relay only.

⁴ The Indiana Commission has approved the establishment of a State fund in Cause No. 42144, but the decision was appealed and we are waiting on a final determination from the Court. In the meantime, the Commission has begun to move forward with some administrative tasks in the event the decision is favorable to us.

	Carrier Association (ISCECA)	
KS	NECA	
MD	State of Maryland Office of Human Resources	
ME	NECA	
MO	QSI Consulting, Inc.	The Missouri Universal Service Fund is administered by the Missouri Universal Service Board, consisting of the five Commissioners of the Missouri Public Service Commission and a representative from the Office of Public Counsel. The administrative work related to the MO USF is contracted out to a fund administrator who is then responsible for the day-to-day operations of the MO USF
MT		Although not invoked, if and when Montana has a State universal service fund, the Montana PSC must select a fiscal agent and administrator that will receive and distribute funds (MTA 69-3.843)
NV	NECA	
NM		RFP will be released this summer to hire an administrator
NY	Targeted Accessibility Fund of New York, Inc.	http://www.nypool.org/index.php
OR	NECA	
PA	NECA	
TX	NECA	
VT	SOLIX (formerly NECA Services)	
WI	Wipfli, LLP	The Commission determines the programs within the USF. It sets rules and guidelines but contracts out the administration of the fund (assessing the providers, dispersing USF monies to qualified companies and individuals, and related accounting functions).

(5) Has your Commission chosen not to assert jurisdiction over any ETC designations necessary for a carrier to access federal universal service?

	State	Total
Yes	AL, CA, DE, FL, NH, NY, NC, PA, TN	9
No	AK, AZ, AR, HI, IA, ID, IL, IN ⁵ , KS, MD, MA, ME, MI, MO, MS, MT, NE, NV, NM, ND, OH ⁶ , OR, SD, TX, UT, VT ⁷ , VA ⁸ , WA, WI, WY	30

(6-9) If 'yes' to question 5, have you disclaimed jurisdiction over wireless applicants, wireline applicants, or both? If you disclaimed jurisdiction, was it because of State statutes or Commission rules? Please include web address for the letter/order(s) disclaiming jurisdiction?

Technology	Yes or No	State	State Statute	Commission Rule	Total
Wireless	Yes	AL DE FL NY NC ⁹ PA TN	Yes Yes ¹⁰ Yes ¹¹ Yes Yes Yes Yes ¹²		7
	No	NH VA ¹³	Yes ¹⁴		2
Wireline	Yes	NC	Yes ¹⁵		1
	No				0
	Not applicable	DE			1
Both wireless and wireline	Yes				0
	No				0
Not applicable		AK, AZ, AR, CA,	AK, AZ, AR, CA, HI, IA,	AK, AZ, AR, CA, HI, IA,	N/A

⁵ The Indiana Commission does assert full jurisdiction over all ETC designations within the State of Indiana for Federal Universal Service, including wireless applicants (except over rates and charges).

⁶ Ohio designates ETC status.

⁷ We have always asserted jurisdiction over ETCs when asked.

⁸ We have one CLEC, Cox, that the SCC processed their ETC application (see PUC-2003-00167; Cox later gave up the designation). Additionally, there have been two wireless applications that we referred to the FCC for approval (later SCC approved service area).

⁹ The NCUC does not have jurisdiction over telephone membership cooperatives for these purposes, TMCs are regulated by the state REA.

¹⁰ Cellco Partnership d/b/a Bell Atlantic Mobile was granted ETC status in Delaware by the FCC on Dec. 22, 2000. Cellco has never operated as an ETC in Delaware and has never received any federal USF in Delaware.

¹¹ <http://www.floridapsc.com/library/FILINGS/03/09112-03/09112.03.pdf>

¹² T.C.A. 65-4-101(6)(F)

¹³ PUC-2001-00263 (Virginia Cellular LLC) and PUC-2004-00056 (Highland Cellular, Inc.)

¹⁴ puc.nh.gov/Regulatory/Orders/2003orders/24245t.pdf

¹⁵ With respect to TMCs only. www.ncuc.net Docket Search: P-100 Sub 133c

		HI, IA, ID, IL, IN, KS, MA, MD, ME, MI, MO, MS, MT, NE, NM, ND, OH, OR, SD, UT, VT, WA, WY	ID, IL, IN, KS, MA, MD, ME, MI, MO, MS, MT, NE, NM, NM, ND, OH, OR, SD, UT, VT, WA, WY	ID, IL, IN, KS, MA, MD, ME, MI, MO, MS, MT, NE, NM, ND, OH, OR, SD, UT, WA, WY	
No response		NV, TX, WI	NV, TX, WI	NV, TX, WI	

(10) If you have disclaimed jurisdiction over any proposed ETC, have you also “failed to act” with respect to annual certifications to the FCC with respect to such carriers?

“Failed to Act”?	State	Total
Yes	AL, NY, NC, PA	4
No	FL, TN ¹⁶ , VA	3
N/A	CA, NH, OH	3

¹⁶ Because wireless carriers do not fall within the jurisdiction of the TRA, the FCC provides designation to wireless carriers U.S.C. 214(e)(6).

(11-13) Did your Commission take any action to respond to the FCC's subsequent March 17, 2005, generic order on ETC designations? If 'yes', web address for either the final orders or the orders instituting proceedings for your Commission? If 'no', is your Commission considering taking action to respond to the March order?

Action?	State	Web Site	Total
Yes	CA ¹⁷	CA: http://www.cpuc.ca.gov/Published/Final_resolution/14437.htm	12
	ID	ID: http://www.puc.state.id.us/orders/99999.ord/final%20order%20no%2029841.pdf	
	IN ¹⁸		
	KS ¹⁹		
	ME	ME: www.state.me.us/mpuc ; see order 2000-246, dated June 24, 2005 at www.state.me.us/mpuc/orders/ordtb12005.htm	
	MI ²⁰	MI: http://www.cis.state.mi.us/mpsc/orders/comm/2005/u-14530_05-17-2005.pdf	
	MO ²¹		
	NE	NE: www.psc.state.ne.us (Docket C-3415, rule and regulation 165)	
	ND ²²		
	UT	UT: http://www.rules.utah.gov/publicat/code/r746/r746-360.htm.#T6 Automatic Adoption of FCC Standards by Rule	
	WA	WA: http://www.wutc.wa.gov/webimage.nsf/bf58cb1298ea3d2088256efc00506bc2/21a4fb51f8ce669	
	WY ²³		
No	AZ ²⁴ , DE,		12

¹⁷ Resolution Adopted Outlining Comprehensive Guidelines for ETC Designation and Recertification, Res. T-17002 (Item 5, adopted on consent agenda) – By this item, the Commission adopted a set of procedures for ETC designation and recertification. The resolution was prompted by the FCC's Report and Order addressing the Federal-State Joint Board recommendations on universal service (FCC 05-46), which encouraged the states to adopt additional prerequisites for ETC designation and strengthen the reporting requirements for existing ETCs. This resolution adopts both of these suggestions. Carriers wishing to be designated as ETCs must submit maps showing their proposed service areas, and provide specific information demonstrating their "commitment and ability" to serve those proposed areas. Prospective ETCs must also submit a two-year service quality improvement plan. Similarly, existing ETCs must provide a two-year service improvement plan, and must observe some additional ongoing reporting requirements.

¹⁸ The Indiana Commission has formally adopted the new Federal ETC guidelines effective October 1, 2006. Notice was given to all ETCs under an existing case. Case No. 42067

¹⁹ The Kansas Commission opened Docket Number 06-GIMT-446-GIT on October 25, 2005 in order to investigate issues related to ETC designations, including an examination of the recommendations in the FCC's March 17th order. The Commission received initial comments on December 16th, 2005 and reply comments on January 13, 2006.

²⁰ Case U-14530, issued at the May 17, 2005, Michigan Public Service Commission meeting, gave interested parties 60 days to file comments/reply comments. Comment period ends July 17, 2005. A final order has not been issued and so all following questions are answered based on the existing ETC program in Michigan.

²¹ Order finding necessity for rulemaking in Case No. TX-2006-0169 was issued 10-13-05. The rulemaking has yet to be completed.

²² In November 2005 the NDPSC began a rulemaking to consider the FCC additional requirements for ETC designation recommended in the FCC's Report and Order released March 17, 2005, in CC Docket 96-45. The rulemaking is pending (Case No PU-05-575).

²³ The order initiating the rule making proceeding has not yet been issued. The WYPSC is drafting formal rules for designation and annual certification of ETCs with much of the substance based on the FCC ETC Order.

²⁴ The Commission has not issued any orders on ETC designation since the FCC March 17, 2005 generic Order. Staff has determined that it would recommend the requirements from the FCC March 15, 2005 Order to pending and new ETC applicants.

	IL, MA, MD, MT ²⁵ , NH ²⁶ , NY, NC, NV, TN, VA		
No, but considering	AL AR AK ²⁷ FL IA HI MS NM ²⁸ OH OR PA SD TX	AR: Arkansas has an ongoing docket to consider the FCC's changes to ETC qualifications. http://170.94.29.3/PDF/05/05-038-u_1_1.pdf FL: http://floridapsc.com/library/FILINGS/05/05532-05/05532-05.PDF OH: The Ohio Commission is currently reviewing the FCC's March 2005 decision to determine what of our ETC requirements and filing procedures should be modified.	13
Yes, considering	WI ²⁹		1

(14) FCC Order at ¶ 11, 16 Single connection:

- a. Can Federal ETCs designated by your Commission receive support for all connections based on expenditures or on access lines served, including support for multi-line business and residential customers?

Yes	AK, AZ, AR, CA, DE, IL, FL, HI, IA, ID, KS, ME, MI ³⁰ , MO, MS, MT, NE, NM, NV, ND, OR, PA, SD, TN, TX, UT, VT, WA, WY	29
No	MD	1

²⁵ No action per se, but the Montana PSC was acutely aware of the FCC decision

²⁶ Unaware of any response or subsequent action.

²⁷ The Commission determined it would begin applying requirements from the FCC March 17, 2005 Order to new ETC applicants but has not yet issued an order implementing these requirements in a docket addressing an ETC application.

²⁸ New Mexico is in the process of examining the eligibility of ETCs in an access reform docket and will consider the FCC's new criteria in that docket (05-00211-UT).

²⁹ We are considering it as part of our redraft of our USF administrative rules (still in drafting form).

³⁰ If USF is provided for this purpose, the ETC is eligible to receive it from USAC. To date, Michigan does not place additional restrictions or conditions on ETCs that would prohibit them from receiving USF monies for supported activities.

N/A	AL, IN, NH, NC, WI	5
Other	OH ³¹	1

- b. Has your Commission limited or attempted to limit through the Federal ETC designation process the number of access lines per-customer for which an ETC receives support?

Yes	MD, WI	2
No	AL, AK, AZ, AR, CA, DE, IL, FL, HI, ID, IN, IA, KS, ME, MI, MO, MS, MT, NE, NM, NY, NV, ND, OH, OR, PA, SD, TN, TX, UT, VT, VA, WY	33
N/A	NH, NC, WA	3

- c. Has your Commission limited through the Federal ETC designation process the type of customer (i.e., business or residential) for which an ETC receives support?

Yes	MD, WI	2
No	AK, AL, AZ, AR, CA, DE, IL, FL, HI, IN, IA, ID, KS, ME, MI, MS, MO, MT, NE, NM, NY, NV, ND, OH, OR, PA, SD, TN, TX, UT, VT, WA, WY	33
N/A	NH, NC	2

- d. If you answered 'yes' to any of the foregoing part (13) questions, please type in a web address for the relevant order (if readily available):

MD: http://mlis.state.md.us/cgi-win/web_statutes.exe

MT: The MPSC does not have a URL for just ETC docket orders, a search is required at this address to retrieve ETC designation orders: <http://psc.mt.gov/eDocs/DocketsAndOrders/>
The dockets involving CETCs, that can be researched at the above URL include the following: 2002.8.105, 2002.6.71, 2002.6.72, 2002.6.73, 2001.9.129, 2001.5.50, 2001.5.52, 99.11.250, 2003.8.105, 2003.1.114 and 2003.2.23. The last three dockets contain much more policy substance.

VT: <http://www.state.vt.us/psb/orders/2005/files/7137rccredesignation.pdf> for the current order designating Vermont's only wireless ETC; and <http://www.state.vt.us/psb/orders/2004/files/6934fnl.pdf> for the original order for the same company.

WI: <http://www.legis.state.wi.us/rsb/code/psc/psc160.pdf>

This is our USF administrative rule s. 160.13.

³¹ The Ohio Commission does not limit high cost support to a single line.

(15) FCC Order at ¶ 19 Technological Neutrality:

- a. Does your Commission expressly rely on principles of competitive and technological neutrality in analysis of ETC designation decisions?

Yes	AK, AZ, CA, FL ³² , ID, IL, IN, IA, KS, MI, NE, NM, NY, NV, ND, OR, PA ³³ , TN, TX, VT, WA, WI, WY	23
No	AR, DE, HI, MD, MS, SD	6
Other	AL ³⁴ , ME, MO, MT ³⁵ , NC, UT ³⁶ , OH ³⁷	7

- b. Has your Commission found practical or other limits to the principles of competitive and technological neutrality in the context of ETC designations?

Explain:

Yes	IL, NE, PA ³⁸ , WI ³⁹	4
No	AK, AL, AZ, AR, DE, FL, HI, IA, ID, KS, MA, MD, MI, MO, MS, MT ⁴⁰ , NM, NY, NV, ND, OH ⁴¹ , OR, SD, TN, UT, VT, WY	27
Other	IN ⁴² , TX, WA	3
N/A	ME, NC	2

(16) FCC Order at ¶ 22 Service Area:

- a. The FCC has determined that it will “require that an ETC applicant make specific commitments to provide service to requesting customers in the service areas for which it is designated as an ETC.” Does the FCC’s new requirement differ from your State’s current requirements with respect to designation of service areas?

³² The FPSC noted in its first order designating a competitive carrier as an ETC that the provision of telecommunications through a new medium, in this instance cable telephony, is just what Congress had hoped for when it passed the Telecommunications Act of 1996. The FPSC found that granting the petitioner ETC status furthers the goal that all providers of telecommunications services be treated fairly, and ensures the availability of basic local telecommunications services to all consumers in the state at reasonable and affordable prices.

<http://www.floridapsc.com/library/filings/05/02744-05/02744-05.PDF>

³³ This is addressed as one of many factors.

³⁴ The Alabama Commission by State statute has no authority over wireless carriers. The wireless carriers declared ETCs and receiving USF funds in Alabama have been approved by the FCC. The ETCs that the Commission has approved are mainly the original incumbent Telephone Companies that were operating in the State when the 1996 Telecommunications Act was instituted. The Commission has approved one additional wireline ETC.

³⁵ Reliance has been more implicit.

³⁶ The Commission uses the Guidelines in 47 U.S.C. Section 214(e)(2) and Docket CC-96-45 Issued 3/17/2005 to assess ETC designation.

³⁷ The Ohio Commission has never entertained a request for ETC status from a carrier other than an ILEC or CLEC.

³⁸ Case by case analysis requires a balancing of interest.

³⁹ The Commission identified some technological difficulties for wireless carriers to meet some of the State requirements for ETC designation.

⁴⁰ A “yes” is warranted given the recent Mid-Rivers Cellular case (D2003.8.105) decision.

⁴¹ The Ohio Commission has never entertained a request for ETC status from a carrier other than an ILEC or CLEC.

⁴² With regard to any CETC applicant, including wireless carriers, the Indiana Commission carefully examines issues relating to creamskimming. Additionally, issues relating to service quality capabilities are often examined in the context of the carriers’ ability to serve in the same or functionally similar manner as the incumbent carrier. From a customer’s perspective, they should expect to see no differences in service whether they are selecting a CETC/Wireless carrier or an incumbent wireline carrier, particularly if the carrier is receiving the same or similar amount of USF as the incumbent to remedy any network infirmities that may exist.

If you answered “Yes” or “Other” to 15a, briefly explain how:

Yes	AK, AZ, AR, ID ⁴³ , IA, MT ⁴⁴ , VT ⁴⁵ , WI ⁴⁶	8
No	AL, CA, FL, HI, IL, MD, MI ⁴⁷ , MS, NE, NV, NH, NM, NY, OR, PA, SD, TN, TX, VT, VA, WA, WY	22
Other	DE, IN, KS ⁴⁸ , ME, MO ⁴⁹ , NC, ND ⁵⁰ , OH ⁵¹	8

- b. The FCC order specifies six methods for an ETC to extend service to a customer in its designated service area that it cannot reach with current facilities. If an ETC finds it cannot serve the customer using one of these methods, then the ETC must report the unfulfilled request to the FCC within 30 days after making such determination. Has your Commission specified methods for reaching customers in an ETC’s designated service area currently outside the reach of the ETC’s existing infrastructure?

Yes	AL ⁵² , AK ⁵³ , CA, IA, KS, MS, MT ⁵⁴ , NM, OR, SD, TX, VT ⁵⁵	12
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⁴³ Order No. 29841 (Link in answer to Question #11) imposed similar, but not identical requirements. 1) Applicants are to submit a 2 year, rather than 5 year, build out plan; 2) Applicants are to describe their local service plans, which are not required to provide identical usage to the ILEC. The Commission will review each on a case by case basis. 3) Applicants are not required to certify that they may be required to provide equal access.

⁴⁴ The MPSC’s current requirements are both in orders and in rules that were recently codified. The MPSC in its orders has required competitive ETCs to strive to achieve a 98% coverage goal in two years for one CETC and 5 years for another CETC. The rules seek 98% coverage within 5 years; the MPSC has found that an ETC must by means of its own resources serve all reasonable requests for wireless service at residences and businesses in a CETC’s study areas so long as there is no conflict with other licensed wireless carriers.

⁴⁵ The wireless ETC’s obligations to provide services are set forth in the orders cited above.

⁴⁶ At this point we do not require a list of specific commitments although we do require that a general commitment be made.

⁴⁷ ETC applicants must certify to the Michigan Public Service Commission (MPSC) that they will provide the nine services mandated by the FCC; namely: provide voice-grade access to a public switched network, local usage, dual tone multi-frequency signaling, single party, access to emergency services, operator services, interexchange services, directory services and toll limitation for low-income customers. The MPSC operates under the guideline that additional ETCs promote competition and thus is beneficial for the consumer.

⁴⁸ The Kansas Commission has followed the FCC’s guidance in its Virginia Cellular Order. In the ETC filings reviewed by the Commission following the FCC’s Virginia Cellular Order, the Commission has required the carriers to follow the 6 or 7 step process for evaluating requests for service as highlighted by the FCC. Additionally, on a quarterly basis, the carriers are required to report all instances in which the company refuses to serve a customer, including information regarding the specific location of the customer, the company’s rationale for reaching the final step of the process for each customer, and the company’s progress with establishing interconnection arrangements which permit resale of either wireless or ILEC services in the location of the customer the company refused to serve. The Commission has also required the carriers to provide a projection of the amount of support the carrier expects to receive from the federal USF for the following year, a capital expenditure budget for Kansas for the following year, and a verified statement regarding the use of support as is currently required of all ETCs.

⁴⁹ The MoPSC is currently undergoing a rulemaking proceeding on ETC designation.

⁵⁰ In November 2005 the NDPSC began a rulemaking to consider the FCC additional requirements for ETC designation recommended in the FCC’s Report and Order released March 17, 2005, in CC Docket 96-45. The rulemaking is pending (Case No PU-05-575).

⁵¹ The Ohio Commission is currently reviewing the FCC’s March 2005 decision to determine which of our ETC requirements and filing procedures should be modified.

⁵² The Commission on September 25, 2002 in Docket 25980 required BellSouth to utilize up to \$600,000 of the \$16.3 Million dollars of the 2003 federal high-cost support it proposed to expend during 2003 to deploy loop fiber and next generation digital loop carrier to implement CSA design on the provision of basic local service exchange service to end users who have made application for services but have been unable to obtain service due to economic inefficiency and/or prohibitive aid to construction amounts.

⁵³ The six methods adopted by the FCC were similar to the methods proposed by Alaska Digitel, Inc. (and accepted by the RCA) in its application for ETC designation. See Order No. 10 in Docket U-02-039 at <http://rca.alaska.gov/data/index.html>

⁵⁴ See our citation above to the Western Wireless order in docket 2003.1.114 and the allowance to use “wireless access units” as an example.

⁵⁵ Here is an excerpt from the more recent order:

Service Offered. In order to effectively offer USF-required services throughout Vermont:

a. For any customer whom [carrier] is unable to serve at the customer’s Preferred Usage Location, [carrier] shall continue to offer the right to cancel service with a refund within 30 days following purchase. Refunds shall include charges that are billed in advance, including the activation fee, the monthly access charge, and the price of the phone (if any), feature charges, and taxes and surcharges. Refunds shall not apply to third-party charges, such as per-minute roaming charges not included in the customer’s plan.

No	AR, DE, FL, IL, IN ⁵⁶ , MD, MI, NE, NV, NH, NY, ND, PA, TN, UT, WA, WI, WY	18
Other	AZ ⁵⁷ , HI ⁵⁸ , ID ⁵⁹ , ME, MO ⁶⁰ , NC, OH ⁶¹	7

(17) FCC Order at ¶ 23 Five Year Plan (Build out proposal):

- a. The FCC now requires “that an ETC applicant submit a five-year plan describing with specificity its proposed improvements or upgrades to the applicant’s network on a wire center-by-wire center basis throughout its designated service area.” The FCC has stated that an ETC’s five-year plan “must include: (1) how signal quality, coverage, or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation; (2) the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; (3) the specific geographic areas where the improvements will be made; and (4) the estimated population that will be served as a result of the improvements.” Does your Commission include any similar requirements [a build out plan?] in its ETC designation process?
- b. If you answered ‘yes’, please indicate the area where similarities between your Commission’s requirement for buildout/implementation plan and the FCC’s criteria overlap. Otherwise, skip to the next question.

	Question A	Total #	Question B
Yes	CA AK ⁶² HI	15	CA: CA’s findings say “Carriers should satisfy the criterion established by Section 214(e) of the Act and set forth on the FCC’s rules.” AK: Similar to item (3). The RCA Commission required ETCs to file plans and maps showing the areas of expansion and/or upgrade. See Orders referenced above. HI: The Hawaii PUC’s build-out plan requirement with respect to Nextel Partners (Order No. 21089 in Docket No. 03-0104 filed on June 25, 2004) specifies that the build-out plan describe in detail the company’s plan to expand and enhance its network infrastructure and facilities with the use of federal USF monies. Separately, Nextel Partners must also annually file a summary description of all capital projects that exceed \$500,000 and a description

b. [carrier] shall inform each customer at the time of sale that he or she may ask for service-extending measures if the signal at the customer’s billing address (or at a different address specified by the customer that represents the customer’s home or work location) (“Preferred Usage Location”) is not reliably useful using standard equipment.

c. [carrier] shall continue to operate a protocol for making reasonable responses to customer requests for service-extending measures. The protocol shall discuss measures to be offered to customers, including customer-specific enhancements (such as external antenna kits and more powerful telephones) and system enhancements (such as adjusting [carrier]’s antennas, using resale of wireline service, and constructing new facilities). The protocol may describe the order in which various measures will be tried.

⁵⁶ The Indiana Commission does not require any additional methods outside of the established criteria set forth by the FCC Order. In our CETC designations for wireless carriers, we have required the carriers to report the number and location of unfulfilled service requests per year and the final disposition of the request as a condition of their designation.

⁵⁷ Staff has recommended the six methods in pending ETC applications.

⁵⁸ In its latest ETC designation order, granting Nextel Partners’ request for an ETC designation (Order No. 21089 in Docket No. 03-0104 filed on June 25, 2004), the Hawaii PUC adopted voluntary commitments made by Nextel Partners, which included the company’s implementation of generally the same six steps to ensure that it meets its obligation to respond to reasonable requests for service.

⁵⁹ Order 29841 requires ETCs to report unfulfilled requests and to detail how it has attempted to provide service.

⁶⁰ The MoPSC is currently undergoing a rulemaking proceeding on ETC designation.

⁶¹ The Ohio Commission does not currently have specific methods for carriers to reach customers though build out requirements.

⁶² The RCA has required applicants to file buildout plans to show how they intend to provide service throughout their designated ETC area. See Order No. 2 in Docket No. U-03-16 and Order No. 10 in Docket U-02-39 at <http://rca.alaska.gov/data/index.html>

	NE NM ⁶⁵ OR SD UT VT		in the FCC order. NM: - OR: In 2004 cases, a one-year build-out plan was requested. After the FCC's 2005 order, recent applicants have submitted information consistent with all FCC criteria at Staff's request, although the Commission has not yet formally adopted such requirements. SD: In its latest ETC order, the SDPUC imposed the following conditions regarding implementation plans: ⁶⁶ UT: http://www.rules.utah.gov/publicat/code/r746/r746-360.htm#T6 the State of Utah uses the FCC guidelines. VT: Vermont has limited the duration of a wireless carrier's ETC designation primarily to allow itself the opportunity to periodically review build out achievements. Vermont has relied primarily on a post-construction periodic review rather than prior approval of planned construction.
No	AR, DE, IA, IL, MI, NV, NH, NY, ND, OH, TN, TX, WA, WI	14	
Other	AL ⁶⁷ , AZ ⁶⁸ , FL ⁶⁹ , MD ⁷⁰ , MO ⁷¹ , NC, PA ⁷² , WY ⁷³	8	AL: The Alabama PSC reviews the company's plan for just one year at a time as opposed to the five year plan the FCC has adopted. The FCC's plan requires a much high level of detailed information.

⁶⁷ The Alabama PSC requires BellSouth to provide a quarterly report that delineates the status of the current year universal service plan. The report provides the year-to-date financial information and accomplishments. BellSouth is required to report the status of each high cost project and the level of funding expended on each project.

⁶⁸ Staff has recommended a five year plan requirement in pending ETC applications.

⁶⁹ The FPSC has not established formal rules requiring additional criteria for the designation of ETCs in Florida. The only wireline CLEC that has been granted ETC status in Florida has volunteered to provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity throughout the service area. The FPSC is considering adopting new high-cost annual certification and reporting requirements which, if adopted, would require a five-year service quality improvement plan. The issue will be addressed at the July 19th Agenda Conference. <http://www.floridapsc.com/library/FILINGS/05/05532-05/010977.RCM.DOC>

⁷⁰ The Commission has not considered this issue yet.

⁷¹ The MoPSC is currently undergoing a rulemaking proceeding on ETC designation

⁷² Generally, our commission will follow the FCC's latest requirements.

⁷³ The pending rule making proceeding by the WY PSC addresses these specific issues and other important elements of the FCC's ETC

- c. Does your approach examine:
- (i) How signal quality, coverage, or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation;
 - (ii) The projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support;
 - (iii) The specific geographic areas where the improvements will be made;
 - (iv) The estimated population that will be served as a result of the improvements.

Yes	AK ID IN KS ME MS MT NE NM NV OR SD UT VT	iii i, ii, iii, iv i, ii, iii iii iii i, ii, iii i, iii, iv i, iii, iv ii i i, ii, iii, iv i, iii i, ii, iii, iv i, ii, iii, iv
N/A	AZ ⁷⁴ , AR, DE, FL, HI, IA, MD, MI, MO, NC, ND, OH, PA, TX, WA, WI, WY	

- d. If you answered 'yes' to part a., please indicate if your Commission includes factors beyond these in its analysis of your build-out plan?

Yes	AK, MS, MT	3
No	ID, IN, KS, ME, NE, NM, OR, PA, UT	9
N/A	AZ, AR, DE, FL, HI, IA, MD, MI, MO, NV, NC, ND, OH, SD, TX, VT, WA, WI, WY	19

⁷⁴ Staff has recommended utilizing the FCC criteria.

- e. The FCC Order at ¶ 24 rejects suggestions that build-out plans include a specific timeline. Do your Commission's rules require inclusion of specific timelines?

Explain:

Yes	ID ⁷⁵ , NM, UT	3
No	AL, AK, AZ, CA, DE, HI, IL, IA, KS, MI, MT, NE, NV, ND, OR, PA, TN, WA	18
Other	AR, FL, IN, ME, MD ⁷⁶ , MO ⁷⁷ , MS ⁷⁸ , NC, OH, SD ⁷⁹ , TX, VT, WI, WY ⁸⁰	14

(18) FCC Order at ¶ 23 ("Auditing" Function/Reporting)

- a. The FCC now requires supported improvements have actually been made through particular report elements. It requires "an ETC applicant must submit coverage maps detailing the amount of high-cost support received for the past year, how these monies were used to improve its network, and specifically where signal strength, coverage, or capacity has been improved in each wire center in each service area for which funding was received. In addition, an ETC applicant must submit on an annual basis a detailed explanation regarding why any targets established in its five-year improvement plan have not been met." Does your Commission have a similar reporting requirement that assists the Commission in its annual certification process?

Explain:

Yes	AK, ID, IL, KS, MS, MT, UT, VT ⁸¹ , WY	9
No	AL, AR, CA, HI, IN, IA, MI, MO, NE, NV, NM ⁸² , PA ⁸³ , TX, WA, WI	15
Other	AZ ⁸⁴ , DE, FL, ME ⁸⁵ , MD, NH, NY, NC, ND ⁸⁶ , OH ⁸⁷ , OR ⁸⁸ , SD, TN ⁸⁹	13

⁷⁵ The Commission recognizes timelines will change.

⁷⁶ The Commission has not considered this issue yet.

⁷⁷ The MoSPC is considering a draft proposed rulemaking.

⁷⁸ On an annual basis, the Mississippi PSC approves each ETC's USF plan. Each ETC submits quarterly reports and at the end of the year, we review the progress of the projects that had been approved.

⁷⁹ As stated above, the SDPUC had a specific timeline for the initial building of certain cell towers but no timeline beyond that.

⁸⁰ The final WY PSC rules resulting from the rule making proceeding may incorporate some of the language at ¶ 24.

⁸¹ We require reports from both wireless and wireline ETCs. Wireless reports must "identify the principal purposes of major capital expenditures made between July 1 of the preceding year and June 30 of the current year, and shall particularly explain: the extent to which those expenditures were in response to independent FCC obligations, including number portability requirements and E-911 accuracy requirements; and whether the expenditure facilitated enhanced high-speed data services in existing service areas. The report shall also describe the location, by town, of any new cell towers or repeaters." Wireline reports are less specific.

⁸² Annually, the ETC must provide a construction plan that lists the projects complete in the previous year with a detailed statement explaining how much of the service area the company serves due to the complete construction along with a plan and timeline for using universal service support to build out new towers and facilities to expand and upgrade coverage and services in the coming year.

⁸³ We will require what the FCC requires now. In the past, in high-cost certification, we required signed affidavits from ETCs attesting that fed's high-cost support monies will be used to further TA-96 goals of network modernization and we require data sheets showing where past monies have been spent. We double check the data sheets against annual report filings of the ETCs to make sure monies are being spent on plant improvements, etc. in Pennsylvania.

⁸⁴ Staff has recommended such reporting in pending ETC applications.

⁸⁵ We may in the future, particularly requiring maps.

- b. Does your Commission approve other investments or expenditures as satisfactory to meet the requirement to use federal support only for intended purposes?

Yes	KS ⁹⁰ , MS, OR, TN, UT	5
No	AL, AK, AZ, AR, CA, FL, HI, ID, IL, IA, MD, MI, MO, NE, NV, NH, NM, NY, ND, OH, PA, TX, VT, WA, WI, WY	26
Other	DE, IN, ME, MT, NC, SD	6

- c. Please include a brief description of any auditing function performed by your Commission prior to its certification to the FCC on the use of federal USF funds.

AK: For this year, the RCA required the regulated ETC's operating in Alaska to file a completed Data response and Affidavit Form based on self-certification of proper use of funds.

AZ: None have been initiated.

ID: The Idaho Commission has historically required companies to self-certify to the Idaho Commission on the use of federal USF funds. Order 29841 will require more detailed reporting.

ME: No audit; self certification.

MI: No USF audits are performed by the MPSC. An affidavit, signed by an officer of the ETC is submitted prior to the October 1 deadline. This document certifies USF support is being used appropriately and is forwarded to the FCC and USAC. However a final order is pending in Case U-14530 and changes may be made to Michigan's current process.

MO: The MoPSC currently requires ETC's to submit an affidavit that they are using all federal USF monies in the proper manner in which they were intended. The MoPSC also requires carriers to submit various forms of documentation, copies of which are attached. Furthermore, the MoPSC chooses a select number of carriers every year for a detailed audit as to their usage of federal USF monies.

MS: See 17(b)

NM: Carriers self-certify with an affidavit of an officer of the company and a listing of yearly USF funding utilization in certain basic categories of expenditures.

OH: See response to question 18a.

SD: We do not perform any audits.

PA: Our Bureau of Fixed Utility Services and our Law Bureau review the data sheets and affidavit regarding high-cost funds. If an EDC cannot show it is making any expenditures in PA towards network modernization or has failed to file an annual report this is problematic and the ETC may not be recertified.

⁸⁶ North Dakota has not yet adopted such requirements. The NDPSC forwards ETC affidavits to the FCC, but does not audit them or attest to their sufficiency.

⁸⁷ The Ohio Commission requires annually that each company receiving high cost support to submit an affidavit signed by a responsible officer attesting that the company is using the funds consistent with the FCC's requirements. The signed affidavits, which are subject to all applicable perjury sanctions, are reviewed by staff and approved by the Commission.

⁸⁸ Wireless CETC's designated in 2004 had some reporting requirements for 2005, but not as detailed as those in the FCC's new rules.

⁸⁹ The TRA has notified carriers of the reporting requirements adopted by the FCC.

⁹⁰ The Commission's current 254(e) certification filing consists of a self-certification form that is verified by the company representative. See response to 17a for more information regarding new requirements the Commission is considering imposing, for additional information on the Commission's investigation, see Docket No. 05-GIMT-112-GIT on the Commission's website <http://kcc.state.ks.us/docket/cal.cgi>.

WY: Commission Staff reviews and examines the supporting documentation, accounting data and schedules provided by the carriers in response to written inquiries issued by the Wyoming Commission in advance of the October 1 filing date. Staff conducts any necessary follow-up to verify the carrier's responses and certifications.

(19) FCC Order at ¶ 25 Emergency Communications/Reliability:

- a. Does your Commission impose any specific requirements on ETCs to remain functional in emergency situations and/or “demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations,” and /or reporting any outages?
- b. If you answered ‘yes’ to the previous question, please provide a cite to the applicable orders or rules, otherwise skip to (18):

Yes	NE TN	2	NE: Docket #: C-3415 TN: T.C.A. 1220-4-2-.23 requires emergency power availability within a reasonable amount of time.
No	AK ⁹¹ , AR, IL, IA, KS, MD, MI, MS, NV, NH, NM, NY, ND, PA, TX, UT, VT ⁹² , WA, WI	19	VT: http://www.state.vt.us/psb/orders/2004/files/6934fnl.pdf at page 35, finding 82.
Other	AZ, DE, FL ⁹³ , HI ⁹⁴ , ID ⁹⁵ , IN, ME, MO, MT ⁹⁶ , NC, OH ⁹⁷ , OR ⁹⁸ ,	14	OH: http://www.puco.ohio.gov/apps/rules/rulefinder.cfm?rulekeyword=4901c1d05&printer=1

⁹¹ Although no order has been issued at this time, the RCA determined that the requirements stated above shall be required of new ETC applicants and documentation will be required from current ETCs in the annual certification process. In addition, procedures for wireline service interruptions, including an 8-hr reserve power requirement, can be found in the RCA regulations at 3 ACC 52.270. See <http://www.state.ak.us/rca/Regulations>

⁹² No, we did not impose any requirements, but we found that the wireless ETC who was designated: 1) provides most cell sites with battery backup that provides between two to three hours of power; 2) equips hub cell sites or remote cell sites with additional power backup from a propane or diesel generator, which extends the power backup to at least 12 hours; and 3) maintains a large diesel generator at its switch location.

⁹³ The FPSC has not established formal rules requiring additional criteria for the designation of the ETCs in Florida. The only wireline CLEC that has been granted ETC status in Florida has volunteered to demonstrate its ability to remain functional in emergency situations. The FPSC is considering adopting new high-cost annual certification and reporting requirements which, if adopted, would require ETCs to demonstrate how it is able to function in emergency situations. The issue will be addressed at the July 19th Agenda Conference.

⁹⁴ Pursuant to General Order No.8 Section 5.6 relating to Emergency Operation, all authorized telecommunications.

⁹⁵ Order No 29841 uses the same language as in this question. No specific standards are identified.

⁹⁶ MPSC's rules have considered but have not specified requirements.

⁹⁷ The Ohio Commission requires all LECs to meet the following requirements. We have not entertained any ETC applications from non LECs (that is, we have not entertained an ETC request from a CMRS provider). 4901:1-5-19 Emergency Operation.

(A) All telephone service equipment shall have the following emergency electrical power available:

(1) All central office and associated switching equipment with five thousand access lines or less shall have a permanent power-generating unit or portable generator available to be delivered on site and operating within two hours of lost commercial power.

(2) All central office and associated switching telephone equipment with more than five thousand access lines shall have a permanently installed emergency power-generating unit.

(3) A four-hour battery reserve must be available for all central office and associated switching equipment.

(B) Records shall be maintained for all central office and associated switching equipment that requires battery back-up. Such records shall be maintained at a centralized site and must list all maintenance performed on the batteries, as well as the length of time the batteries will perform under load. All batteries must be able to perform under load, during peak time, for a minimum of four hours.

Emergency generator units shall be tested under load once a month. Records of such tests shall be maintained on site or at a centralized location.

(C) Each local service provider shall maintain and make available for commission inspection its current plans for emergency operation.

	SD ⁹⁹ , WY ¹⁰⁰		
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- c. Do your rules – with respect to the ETC:
- (i) Specify a time frame (e.g., eight hours) for back-up power capability?
 - (ii) If ‘yes’, please specify the time frame.
 - (iii) Require the ability to reroute traffic to other cell sites in emergencies?
 - (iv) Require the ability to re-route traffic from the line-side of a switch?
 - (v) Require reporting on an annual basis of ETC outages?
 - (vi) Other, explain:

Yes		0
N/A	AK, AZ, AR, DE, FL, HI, IN, IA, KS, ME, MD, MI, MS, MO, MT, NE, NV, NM, NC, ND, OR, PA, SD, TX, UT, VT, WA, WI, WY	29
Other	OH ¹⁰¹ , TN ¹⁰²	2

(20) FCC Order at ¶ 28 Consumer Protection/Non-Emergency Service Standards:

- a. The FCC will require a carrier seeking “ETC designation to demonstrate its commitment to meeting consumer protection and service quality standards” by making “a specific commitment to objective measures to protect consumers.” The FCC did not adopt standards. It permits an ETC to propose standards to which the ETC will adhere. Other than the emergency/reliability standards reference in the preceding question, does your Commission have specific service quality standards that apply to ETCs (and other LECs)? Explain:

Yes	AL ¹⁰³ , AZ ¹⁰⁴ , AR ¹⁰⁵ , DE, FL ¹⁰⁶ , HI, IL ¹⁰⁷ , KS ¹⁰⁸ ,	16
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(D) Each local service provider shall submit to the PUCO outage coordinator, not later than December first of each year, an emergency contact report which shall contain the following:

- (1) The names, business address, and business and home telephone numbers of three emergency contact personnel;
- (2) Any available emergency hotline telephone number; and
- (3) The fax number(s) of its emergency contact personnel.

(E) Each local service provider shall promptly notify the PUCO outage coordinator of any change in its emergency contact personnel.

⁹⁸ Strict requirements have not yet been adopted, but applicants have included emergency functionality factors in their applications that meet FCC requirements.

⁹⁹ Under our analysis regarding quality of service we look at back-up power. For example, in our most recent ETC order we made the following finding:

1. Another criteria to consider is whether the Petitioners have made any commitments regarding quality of telephone service. The Petitioners state that their current customers “enjoy a very high level of service quality” and that they have a call completion rate of around 98%. Pet. Exh. 5 at 6. The Petitioners further noted that their “network experiences almost no down time” and that they “have never had a switch outage due to a failure.” *Id.* The Petitioner’s customer service representative can be reached at any time, 24 hours a day, seven days a week. *Id.* at 7. The Petitioners stated that their response time to an outage report is usually less than one hour. *Id.* at 5. The Petitioners also stated that their system is “reinforced by the presence of battery backups installed at its cell sites, accompanied by generators at more remote and key communications sites, along with a pair of diesel generators at its switch, which are capable of running indefinitely in the event of a major electrical outage.” *Id.* In addition, the Petitioners have “portable generators on stand-by that can be moved to individual cell sites to supplement back-up batteries.” *Id.* Further, the Petitioners have “committed to report the number of consumer complaints filed per 1,000 handsets each year” and their “customer service agreement includes important protections for consumers, including service complaint resolution procedures and provisions for customer-initiated termination of service.” Pet. Exh. 1 at 18. Thus, the Commission finds that the Petitioners have made commitments regarding their quality of telephone service.

¹⁰⁰ Not at this time but maybe after the rule making proceeding is concluded.

¹⁰¹ See 19a.

¹⁰² No time is set. Rerouting is not addressed but outage records are to be maintained and made available to the TRA upon request.

	MT, NE, NY, OR, PA ¹⁰⁹ , UT ¹¹⁰ , VT ¹¹¹ , WY	
No	IA, ME, MD, MI, MO ¹¹² , NV, NH, NM, ND, TN ¹¹³ , TX, WA	12
Other	AK ¹¹⁴ , ID ¹¹⁵ , IN, MS ¹¹⁶ , NC, OH ¹¹⁷ , SD ¹¹⁸ , WI ¹¹⁹	8

- b. Does your ETC Designation procedure include any requirement for the applicant to make a showing like one described by the FCC in part a, supra?

Yes	ID, IL, KS, MS, NE, OR, TN, WY	8
No	AL, AK, AZ, AR, DE, HI, MD, MI, NV, NH, NM, NY, ND, OH, PA ¹²⁰ , TX,	18

¹⁰³ Specific service quality standards apply to all ETC's.

¹⁰⁴ Certain rules (see A.A.C. R14-2-5XX) and Qwest' Service Quality Plan Tariff which, except for the penalties section, is applicable to all CLECs.

¹⁰⁵ The service quality standards apply to the ILECs and CLECs and would therefore apply to those that have been designated ETCs. These standards would not apply to wireless companies that have been designated as ETCs.

¹⁰⁶ The FPSC has not established formal rules requiring additional criteria for the designation of ETCs in Florida. The only wireline CLEC that has been granted ETC status in Florida has volunteered to demonstrate that it will satisfy consumer protection and service quality standards. The FPSC is considering adopting new high-cost annual certification and reporting requirements which, if adopted, would require ETCs report the number of complains per 1,000 handsets or lines and adhere to service quality standards and consumer protection rules. The issue will be addressed at the July 19th Agenda Conference.

¹⁰⁷ Illinois Commerce Commission administrative code parts that set out service quality and consumer protection requirements for all local exchange carriers are applied to ETC applicants.

¹⁰⁸ The Commission has required recent ETC applicants (after Virginia Cellular Order) to commit to comply with the CTIA's Code for Wireless Service and to report the number of complaints per 1000 handsets for the preceeding year on January 31 of each year. In addition, the Commission is currently reviewing its quality of service standards that are applicable to all facilities-based CLECs and ILECs. (Docket No. 05-GIMT- 187-GIT). The Commission is considering, among other things, extending its quality of service requirements to ETCs. The Commission has received comments and held several workshops. The Commission has not made a decision on this case yet, and may require more testimony or comments prior to making its decision.

¹⁰⁹ However these standards have not, to date, been extended to wireless.

¹¹⁰ <http://www.rules.utah.gov/publicat/code/r746/r746-340.htm> Utah has service quality standards that apply to all telecommunications carriers. The applicable rule is R-746-340.

¹¹¹ We do not generally apply to wireless the same service quality requirements that apply to wireline. Nevertheless, we require the sole wireless ETC to use a portion of the Federal support it receives to maintain a reasonably low frequency of blocked calls and to meet specified blockage conditions and metrics. We also apply the following wireline standards, in some cases suitably modified: nonpublication of directory listings; discounts to persons who are deaf, speech impaired or hearing impaired; discounts to persons who are blind or visually impaired; no disconnection of local for nonpayment of toll or other charges; protection of ratepayer deposits; and periodic customer notices.

¹¹² Chapter 32 of the Commission rules include quality of service standards for ILECs and CLECs. Please see:

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-32.pdf>

¹¹³ Rulemaking currently in process to address this issue. Docket 00-00873

¹¹⁴ The RCA has service standards and reporting regulations in place for LECS but these standards have not specifically been applied to all ETCs. See 3 AAC 52.260. <http://www.state.ak.us/rca/Regulations>

¹¹⁵ Order 29841 indicates ETCs will be required to meet service quality standards appropriate for the technology..ie wireless carriers must meet the CTIA standards.

¹¹⁶ The Mississippi PSC currently has service quality standards that apply to BellSouth only. Rural CETC's are required to comply with the CTIA Consumer Code for Wireless Service, submit to the Commission the number of consumer complaints per 1000 handsets on a quarterly basis, and provide a designated representative for addressing customer service or quality of service complaints received by the Commission.

¹¹⁷ All LECs in are Ohio are required to adhere to our minimum telephone service standards, which includes a "consumer bill of rights." A URL link to Ohio MTSS follows: <http://www.puco.ohio.gov/apps/rules/rulefinder.cfm?rulekeyword=4901c1d05&printer=1>

¹¹⁸ In its most recent ETC order, the SDPUC required the applicant to abide by the CTIA consumer code and our service quality rules.

¹¹⁹ Not for wireless carriers carriers, but for all others.

¹²⁰ No formal requirements are established.

	UT, WA	
Other	FL, IN, IA, ME, MO, MT, NC, SD, VT ¹²¹ , WI	10

- c. The FCC will require an ETC to “demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation.” The FCC itself declined to adopt a specific local usage threshold, but will review local usage offerings on a case-by-case basis. The FCC intends to “ensure that each ETC provides a local usage component in its universal service offerings that is comparable to the plan offered by the incumbent LEC in the area.” The FCC encourages States to determine whether the ETC “provides adequate local usage.” Does your State require ETCs to offer a specific local usage plan? Explain:
- d. If you answered “yes” to c. supra, are requirements for wireless equivalent to requirements for wireline?

Yes/No/Other	State	Total	Question d :
Yes	FL ¹²² IA MD MT ¹²³ NE UT ¹²⁴	6	No Yes N/A No N/A ¹²⁵ No
No	AZ, AR, DE, HI, ID ¹²⁶ , IL, KS, MI, NV, NH, NM, NY, ND, OR, TN, TX,	18	

¹²¹ Companies seeking ETC designation may stipulate with the public advocate to comply with specified consumer protection and other matters.

¹²² In accordance with Rule 54.201(d)(1), the following services or functionalities shall be supported by federal universal support mechanisms as defined by Rule 54.101 (a): (1) Voice grade access to the public switched network Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call; (2) Local Usage Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users.

Eligibility Requirements - In satisfying its burden of proof necessary to obtain ETC designation, an ETC applicant must now: 1) provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity throughout the service area for which it seeks designation; 2) demonstrate its ability to remain functional in emergency situations; 3) demonstrate that it will satisfy consumer protection and service quality standards; 4) offer local usage plans comparable to those offered by the incumbent local exchange carrier (LEC) in the areas for which it seeks designation; and 5) acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations. In addition, these requirements are made applicable on a prospective basis to all ETCs previously designated by the Commission, and such ETCs are required to submit evidence demonstrating how they comply with this new ETC designation framework by October 1, 2006.

<http://www.floridapsc.com/library/filings/05/02744-05/02744-05.PDF>

Certification that the ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas is required. <http://www.floridapsc.com/library/filings/05/02744-05/02744-05>.

¹²³ See MPSC NEW RULE V (38.5.3209)(e)

¹²⁴ In the State of Utah ETCs must provide a service that will be similar to the services offered by the ILEC.

¹²⁵ The requirement is that it must be *comparable*. The Commission has not yet defined what that means.

¹²⁶ Case by case analysis

¹²⁷ Our wireless ETC has agreed to comply with whatever standards the FCC might adopt.

	VT ¹²⁷ , WA		
Other	AL, AK ¹²⁸ , IN, ME ¹²⁹ , MS ¹³⁰ , MO ¹³¹ , NC, OH ¹³² , PA ¹³³ , SD ¹³⁴ , WI ¹³⁵ , WY ¹³⁶	12	

- e. The FCC did not impose an equal access requirement on all ETCs. It stated that ETC applicants should acknowledge that the FCC may require equal access in the event that no other ETC is providing equal access within the same service area. Has your Commission imposed an equal access requirement on all ETCs?

Yes	MD, MT, PA ¹³⁷ , UT	3	
No	AL, AK, AZ, AR, DE, HI, IL, IN, IA, KS, MI, NE, NV, NH, NM, NY, ND, OR, SD, TN, TX, VT, WA, WY	24e	
Other	FL ¹³⁸ , ME, MS ¹³⁹ , MO ¹⁴⁰ , NC, OH ¹⁴¹ , WI ¹⁴²	7	

- f. The FCC did not adopt a requirement for ETC applicants to demonstrate the financial capability to provide quality services throughout the designated service area. Does your Commission require an ETC applicant to demonstrate the financial capability to sustain supported services?

Yes	NV, MS, PA ¹⁴³ , TN, VT	5	
No	AL, AK, AR, DE, FL, HI, IL, KS, MD, MI, MT, NE,	21	

¹²⁸ The RCA requires ETC applicants as part of the review process to identify local usage plans comparable to those offered by the incumbent LECs. See Order No. 2 in Docket U-03-16 on the RCA website at <http://rca.alaska.gov/data/index.html>

¹²⁹ Agree by one, under consideration by another.

¹³⁰ Usage plans are reviewed on a case-by-case basis.

¹³¹ The MoPSC is considering a draft proposal reulmaking.

¹³² The Ohio Commission requires ETCs to provide basic local service. Like the FCC we have not defined specific what usage component that should entail.

¹³³ Generally, the PUC will follow the applicable FCC standards. Currently, the PUC requires all CLEC's, including non-ETCs, to match the local calling areas of the incumbent where it is offering service.

¹³⁴ We require the offering of local usage but not a specific amount.

¹³⁵ Not a specific plan, but they are required to provide a reasonably adequate number of calls within a reasonably adequate calling area as defined by the Commission.

¹³⁶ Not at this time, but this issue is part of the rule making proceeding

¹³⁷ The PUC requires all ILECs and CLECs, including non-ETCs, to provide equal access to intrLATA and interLATA long distance carriers.

¹³⁸ The FPSC has not established formal rules requiring additional criteria for the designation of ETCs in Florida. The only wireline CLEC that has been granted ETC status in Florida has volunteered to provide equal access if it becomes the only remaining ETC to provide service in its service area. The FPSC is considering adopting new high-cost annual certification and reporting requirements which, if adopted, would require ETCs to acknowledge that the FPSC may require it to provide equal access if no other ETC is providing it within the service area. The issue will be addressed at the July 19th Agenda Conference.

¹³⁹ ETC providers have been informed that equal access may be required in the event a incumbent LEC relinquishes its own ETC designation.

¹⁴⁰ The MoPSC is considering a draft proposed rulemaking.

¹⁴¹ The Ohio Commission's ETC rules require carriers to provide access to interexchange carriers.

¹⁴² Except for wireless carriers because our Commission approved different qualifying requirements on our existing wireless ETCs (on a case by case basis). None of those are required to provide equal access.

¹⁴³ All CLECs, including non-ETCs, are investigated for financial fitness prior to certification.

	NH, NM, NY, ND, OR, SD, TX, WA, WY	
Other	AZ ¹⁴⁴ , ID ¹⁴⁵ , IN ¹⁴⁶ , IA, ME, MO ¹⁴⁷ , NC, OH ¹⁴⁸ , UT ¹⁴⁹ , WI ¹⁵⁰	10

(21) FCC Order at ¶ 40-43 Public Interest Determinations - The FCC states that in making a public interest determination, the “public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.” In your State’s public interest determination, check the following listed items that are included in the balancing test:

- (i) The value of increased competition (which the FCC has found, by itself, is unlikely to satisfy the public interest test).
- (ii) The advantages and disadvantages of particular service offerings
- (iii) The price of a service offering
- (iv) The quality of a service offering
- (v) If the ETC designation of a carrier will confer a public benefit
- (vi) The likelihood of “cream skimming”
- (vii) The impact of designation on the size/sustainability of the high-cost fund
- (viii) The level of per-line support provided to the area
- (ix) Whether a non-incumbent will serve a location without support
- (x) The number of other ETCs approved for service in a particular area
- (xi) The size and economies of scale and scope of the applicant

	Yes	N/A
i	AK, AZ, AR, HI, ID, IL, IN, IA, KS, MI, MS, MT, NE, NV, NM, OR, PA, SD, TN, TX, UT, VT, WA, WI, WY	ND ¹⁵¹ , NC, DE, FL, MD, MO, OH ¹⁵² e
ii	ID, IL, TN, TX, UT, VT, WY, SD, OR, PA, AK, KS, AZ, IA, MS, NE, NM, NV	WI, WA, ND, NC, AR, DE, FL, HI, IN, MD, MI, MO, MT
iii	ID, IL, TN, UT, VT, WY,	TX, WI, WA, OR, ND, NC,

¹⁴⁴ Not a specific showing unless Staff questions the ability and asks for specific information. Technical, financial and managerial ability is considered when examining an application for a Certificate of Convenience and Necessity (not applicable to wireless providers).

¹⁴⁵ financial capability is an issue the Commission considers in granting certification and in its public interest analysis. The Commission did not find additional specific requirements necessary.

¹⁴⁶ Financial capabilities are a condition of receiving a CTA to do business in Indiana so that condition would have already been met prior to a designation being sought by a carrier.

¹⁴⁷ The MoPSC is considering a draft proposed rulemaking.

¹⁴⁸ Ohio has no specific financial requirements for ETC status. However, local providers are required to furnish financial statements as a precondition to gaining a certificate to provide service.

¹⁴⁹ To serve in the State all Telecommunications Carriers must certify in the state. To be certificated, financial strength is one of the criteria analyzed. All ETCs must be certificated telecommunications companies to serve in the State.

¹⁵⁰ Not a specific showing unless staff of the Commission questions the ability and ask for specific information, but technical, financial and managerial ability is considered when examining an application for certification as a provider.

¹⁵¹ There is no ND law specifying items that must be considered in the public interest determination.

¹⁵² The Ohio Commission has not yet formally adopted on an intrastate basis the FCC’s revised ETC standards.

	SD, AK, AZ, HI, IN, MS, MT, NE, NM, NV, PA	KS, AR, DE, FL, IA, MD, MI, MO
iv	ID, IL, TN, TX, UT, VT, WY, SD, OR, PA, AK, KS, AZ, HI, MS, MT, NE, NV	WI, WA, ND, NC, AR, DE, FL, IN, IA, MD, MI, MO, NM
v	ID, IL, TN, TX, UT, VT, WY, WI, SD, OR, PA, AK, KS, AZ, AR, HI, MS, MT, NE, NM, NV	WA, ND, NC, DE, FL, IN, IA, MD, MI, MO
vi	ID, IL, TN, WY, WI, WA, SD, OR, PA, AK, KS, AZ, HI, IN, IA, MI, MS, MT, NE, NV	TX, UT, VT, ND, NC, AR, DE, FL, MD, MO, NM
vii	ID, UT, WY, PA, SD, KS, AZ, IN, MS, MT, NE, NV, VT	TX, WI, WA, OR, ND, NC, AK, AR, DE, FL, HI, IA, MD, MI, MO, NM
viii	ID, UT, WY, IN, MT, NE, NM, NV	TX, VT, WI, WA, SD, OR, PA, ND, NC, AK, KS, AZ, AR, DE, FL, HI, IA, MD, MI, MO
ix	ID, UT, AK, IN, NE, NV	TX, VT, WY, WI, WA, SD, OR, PA, ND, NC, KS, AZ, AR, DE, FL, HI, IA, MD, MI, MO, MT, NM
x	ID, IL, TN, UT, SD, AZ, IN, NE, NV	TX, VT, WY, WI, WA, OR, PA, ND, NC, AK, KS, AR, DE, FL, HI, IA, MD, MI, MO, MT, NM
xi	ID, UT, WY, NE, NV	TX, VT, WI, WA, SD, OR, PA, ND, NC, AK, KS, AZ, AR, DE, FL, IN, IA, MD, MI, MO, MT, NM

(22) Is your State Commission required to follow any State-specific laws or rules when designating ETCs for federal USF purposes?

(23) If you answered yes to question 22, please provide the web address of the designated rules.

Yes	ID ¹⁵³ UT WY WI SD AR FL ¹⁵⁴ NM	ID: http://www3.state.id.us/cgi-bin/newidst?scid=620060010D.K UT: http://www.rules.utah.gov/publicat/code/r746/r746-360.htm WY: Here is the statutory cite - W.S. § 37-15-104(a)(vi)(B). This statutory language granted the WY PSC authority to designate wireless/cellular carriers as ETCs: "To the extent permitted in accordance with the requirements set forth in federal law, consideration and determination of an application for designation as a federal eligible telecommunications carrier;" WI: http://www.legis.state.wi.us/rsb/code/psc/psc160.pdf ETC designation is in § PSC 160.13 SD: http://legis.state.sd.us/rules/rules/2010c.htm#20:10:32 (rules 20:10:32:42 through 20:10:32:49) AR: Attached Ark Code Ann. §23-17-404 FL: http://www.flsenate.gov/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=364.025&URL=CH0364/Sec025.HTM NM: http://www.nmcpr.state.nm.us/nmac/parts/title17/17.011.0010.htm
No	AL, IL, TN, TX, VT, WA, OR, PA, MA, ME, NC, AK, KS, AZ, DE, HI, IN, IA, MD, MI, MO, MS, NE, NY, NV	
N/A	MT ND ¹⁵⁵ OH ¹⁵⁶	ND: http://www.state.nd.us/lr/cencode/t49c21.pdf

(24) STATE USF PROGRAMS - If your State has additional or different requirements for accessing the State USF fund other than those listed in question 21 above, please briefly explain them here:

AR: Attached Ark Code Ann. §23-17-404

AZ: To date, eligibility for Arizona USF (AUSF) has been considered only in the context of a traditional rate case. There is an open generic docket that will evaluate if changes to the existing rules are warranted. The existing AUSF rules are in A.A.C. R14-2-12XX.

¹⁵³ Idaho Code 62-610D mirrors the federal statutes.

¹⁵⁴ 364.025(5) Universal service.-- (5) After January 1, 2001, a competitive local exchange telecommunications company may petition the Commission to become the universal service provider and carrier of last resort in areas requested to be served by that competitive local exchange telecommunications company. Upon petition of a competitive local exchange telecommunications company, the Commission shall have 120 days to vote on granting in whole or in part or denying the petition of the competitive local exchange company. The Commission may establish the competitive local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the Commission first determines that the competitive local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the competitive local exchange telecommunications company as the universal service provider and carrier of last resort, the Commission shall set the period of time in which such company must meet those objectives and obligations.
http://www.flsenate.gov/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=364.025&URL=CH0364/Sec025.HTM

¹⁵⁵ North Dakota Century Code section 49-21-01.8 requires that a telecommunications company may not be an eligible telecommunications carrier unless the company offers all services supported by federal universal service mechanisms throughout the study area.

¹⁵⁶ The Ohio Commission is not subject to any specific State laws upon determining ETC status.

HI: Hawaii's USF is not established at this time.

ID: Eligibility (and payments) for Idaho's current USF program is based upon a company's actual costs of providing service. No company not already subject to financial regulation by the PUC has requested participation in Idaho's USF program.

KS: If the ETCs network already passes or covers the potential customers premises, the ETC should provide service immediately . . . where a request comes from a potential customer within the applicants licensed service area but outside its existing network coverage, the ETC applicant should provide service within a reasonable period of time if service can be provided at reasonable cost by: (1) modifying or replacing the requesting customers equipment; (2) deploying a roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower; (4) adjusting network or customer facilities; (5) reselling services from another carriers facilities to provide service; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment.

MD: See TellLife Statute. Public Utility Companies Article and Related Law, 2003 Edition, §8-201. http://mlis.state.md.us/cgi-win/web_statutes.exe

MO: As currently constructed, wireless carriers cannot draw monies from the Missouri Universal Service Fund.

NE: The NUSF operates differently in several respects. To obtain a designation for State ETC status a carrier must also show that it provides access to white page directory listings and that it provides equal access. There is also a general requirement that ETCs must abide by all Commission rules, regulations and orders.

In addition, in Docket No. NUSF-26, the Commission changed the funding mechanism. NUSF is targeted to fund the least dense areas in the State (as determined by the number of households in a given area). The Commission also adopted a refutable presumption it would not serve the public interest to fund multiple networks in those high cost areas. Carriers can receive funding only if they rebut the presumption or demonstrate that they can provide service to all customers in a designated area in a more cost effective manner and assume carrier of last resort obligations.

NV: To receive State USF the carrier must be the provider of last resort.

NM: Not at this time, but they will be considered in an access reform rulemaking.

OH: The Ohio Commission's ETC requirements can be found at the following URL by entering Case No. "97-414" in search dialog box: <http://dis.puc.state.oh.us/>

OR: Provision of dialing parity is required for State USF

PA: According to 52 Pa. Code § 63.16, fund recipients are restricted to only incumbent local exchange carriers operation in the commonwealth with the exception of Verizon Pennsylvania and Verizon North.

TN: No State USF at this time.

TX: In Texas, in order to received State USF support, a carrier must be designated an eligible telecommunications provider (ETP), pursuant to P.U.C. Subst. R. 26.417, which may be accessed at the following link:

<http://www.puc.state.tx.us/rules/subrules/telecom/26.417/26.417.pdf>. A carrier must be designated an ETC before being an ETP, however, Commission practice has been to process both applications simultaneously, as much of the same information is required. The main difference between the ETP rules and ETC rules is that the ETP rules, unlike the ETC rules, impose certain service quality and customer service requirements on carriers.

VA: State Eligible Telecommunications Carrier Designation Procedures.

WA: See orders in Dockets UT-043011, 023033, and 970333-54 and 56.

WI: We have, generally speaking, the same requirements for any ETC designation. With a limited number of exceptions involving wireless carriers, providers can only be designated as

ETC for both State and federal. There is no separate federal ETC designation. The different requirements can be found in the rule referenced in answer 14.d. and 23 in § PSC 160.13 (and § PSC 160.03 as cross-referenced in 160.13).

WY:

1. Only Essential Access Lines (Basic Local Exchange Service – POTS), as defined by the Wyoming Telecommunications Act of 1995, qualify for support from the Wyoming USF. However, all essential lines qualify for support, not just a single access line or single connection per location/customer.
2. A carrier does not have to be an ETC to qualify for support from the Wyoming USF.
3. A carrier qualifies for support from the Wyoming USF if its rates (prices) are greater than 130% of the weighted statewide average local rate.
4. All embedded and incremental federal USF support is accounted for prior to any support payments from the Wyoming USF.
5. Unlimited local calling is a requirement for all carriers, including wireless/cellular, to qualify for support from the Wyoming USF.
6. Support from the Wyoming USF must be shown as a monthly bill credit on the customer's bill.
7. As of today, no wireless/cellular providers have qualified for support from the Wyoming USF.